

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

NICOLAS JUAREZ, ARIANA GOMEZ, AND §  
JAVIER GOMEZ, A/N/F A.G., A MINOR, §

*Plaintiffs,* §

v. §

UNITED STATES POSTAL SERVICE, §  
*Defendant.* §

CIVIL ACTION NO. 5:22-CV-00237

---

**PLAINTIFFS' COMPLAINT**

---

Plaintiffs, Nicolas Juarez, Ariana Gomez, and Javier Gomez, As Next Friend of A.G., a Minor, files this Complaint complaining of Defendant United States Postal Service.

**I.**  
**PARTIES**

1. **Plaintiff.** Nicolas Juarez (“Juarez”) is a natural person who at all times relevant to this cause of action has been and continues to be a resident of San Antonio, Texas.

2. **Plaintiff.** Ariana Gomez (“Gomez”) is a natural person who at all times relevant to this cause of action has been and continues to be a resident of San Antonio, Texas.

3. **Plaintiff.** Javier Gomez a/n/f A.G., A Minor, (“A.G.”) is a natural person who at all times relevant to this cause of action has been and continues to be a resident of San Antonio, Texas.

4. **Defendant.** United States Postal Service (“USPS”), an agency of the United States of America, may be served by serving the United States through delivering a copy of the summons and of the complaint to the United States Attorney for the Western District of Texas and by sending a copy of the summons and of the complaint by certified mail to the Attorney General of the United States and to the Defendant.

**II.**  
**JURISDICTION & VENUE**

5. This Court has jurisdiction over this lawsuit under 28 U.S.C. §1346(b) because the suit involves a claim against the United States for personal injury caused by the negligent acts and omissions of a government employee while acting within the course and scope of her employment.

6. Venue is proper in the United States District Court for the Western District of Texas, San Antonio Division, pursuant to 28 U.S.C. § 1402(b) because Plaintiffs reside in this district.

**III.**  
**CONDITIONS PRECEDENT**

7. Plaintiffs timely presented their claims in writing to the United States Postal Service. The United States Postal Service failed to make a final disposition of the claims within six months after they were presented.

**III.**  
**FACTS**

8. On May 26, 2019, Plaintiff Juarez was driving a 2010 Dodge Charger, in which Plaintiff Gomez and A.G. were passengers, traveling south along the 2800 block of 25<sup>th</sup> Street North in Texas City, Texas. Meanwhile, USPS employee Kristie Smillie, while acting in the course and scope of her employment with USPS, was driving a 1992 Grumman LLV mail vehicle traveling west along the 2400 block of 28<sup>th</sup> Ave North. As both vehicles approached the intersection, Ms. Smillie disregarded a stop sign and failed to yield the right-of-way to Plaintiff Juarez, causing the two vehicles to suddenly and violently collide. As a result of the collision, Plaintiffs sustained severe and debilitating injuries.

**IV.**  
**FEDERAL TORT CLAIMS ACT**

9. Plaintiffs would show that, on the occasion in question, Kristy Smillie owed a duty to conduct herself in a manner consistent with the traffic laws of the State of Texas and to act as a reasonably prudent person would act.

10. Kristy Smillie breached her duty to Plaintiffs and acted in a manner that was negligent or negligent per se by engaging in wrongful conduct including, but not limited to:

- a. Failing to keep such a proper lookout as a person exercising ordinary prudence would have kept under the same or similar circumstances;
- b. Failing to stop, yield, and grant immediate use of an intersection in obedience to an official traffic control device;
- c. Failing to take timely or proper evasive action to avoid the collision in question; and
- d. Failing to control the subject vehicle so that a collision would not occur.

11. Under the laws of the State of Texas, a private person would be liable to Plaintiffs for the above acts and omissions. Thus, under 28 U.S.C § 2674, the United States is liable to Plaintiffs for personal injury damages sustained as a result of the subject collision.

**V.**  
**DAMAGES**

12. As a direct and proximate result of Defendant's negligence, Plaintiffs have suffered severe personal injuries, pain, suffering, mental anguish, and impairment, and incurred reasonable and necessary medical expenses for the care and relief of their injuries. For a long time to come, if not for the rest of their lives, Plaintiffs will continue to suffer physical injuries, physical impairment, pain and suffering, and mental anguish. Additionally, as a result of the incident, Plaintiffs will incur reasonable and necessary medical expenses in the future. Plaintiffs now sue for all of these damages in an amount that exceeds the minimum jurisdictional limit of this Court.

**VI.**  
**JURY DEMAND**

13. Plaintiffs request a jury in this cause and have tendered payment therefor.

**VII.**  
**PRAYER**

**WHEREFORE**, Plaintiffs request that Defendant USPS be cited to appear and answer herein, and that this Court enter judgment against Defendant USPS for damages, including:

1. Actual damages, not to exceed \$1,000,000.00 each;
2. Prejudgment and post judgment interest at the highest rate allowed by law;
3. Costs of suit; and
4. Such other and further relief to which Plaintiff may show themselves justly entitled.

Respectfully submitted,

**WYATT LAW FIRM, LTD.**  
Oakwell Farms Business Center  
21 Lynn Batts Lane, Suite 10  
San Antonio, Texas 78218  
Tel.: (210) 340-5550  
Fax: (210) 340-5581  
E-service: [e-serve@wyattlawfirm.com](mailto:e-serve@wyattlawfirm.com)

By: /s/ Louis Durbin  
Paula A. Wyatt  
State Bar No. 10541400  
Gavin McInnis  
State Bar No. 13679800  
Louis Durbin  
State Bar No. 24078448  
**ATTORNEYS FOR PLAINTIFFS**